

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )

Application by Bell Atlantic )  
for Authorization under Section 271 )  
of the Communications Act to )  
Provide In-Region, InterLATA Service )  
in the State of New York )

CC Docket No. 99-295

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Reply Comments of  
Communications Workers of America

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## **Summary**

The Communications Workers of America (CWA) submits these comments in support of Bell Atlantic's application for authority under Section 271 of the Communications Act to provide in-region, interLATA service in New York state. Bell Atlantic has met the requirements of Section 271 of the Communications Act to open its local markets to competition. In addition, the New York Public Service Commission's Performance Assurance Plan (PAP), which requires Bell Atlantic to put \$269 million in bill credits at risk annually for non-compliance, provides adequate safeguards against backsliding by Bell Atlantic and creates incentives for Bell Atlantic to engage in continuous improvement of its wholesale services.

Bell Atlantic's entry into the long distance market in New York is in the public interest. First, it will increase competition in the long distance market and emerging bundled services market, especially for low-volume residential consumers, which will lead to lower prices and new service offerings. Second, it will promote the important goal of the 1996 Telecommunications Act to create good, high-wage jobs in the telecommunications industry.

CWA is in a unique position to comment on Bell Atlantic's long distance application in New York. CWA represents more than 34,000 employees at Bell Atlantic-NY.<sup>1</sup> CWA represents the Bell Atlantic-NY customer service employees, technicians, and other occupational employees who work directly with wholesale customers in the dedicated wholesale customer care centers in New York. CWA also represents employees at AT&T, primarily in its long distance operations, but also in some local service operations. Because CWA represents employees in all segments of the telecommunications industry, CWA must base its position regarding an application by a Bell Operating Company to provide long distance services on the factual evidence regarding Section 271 compliance in that state as well on the public interest merits of the application.

To date, CWA has submitted only one set of comments to the Commission in a Section 271 review, the application by Ameritech to provide long distance services in Michigan.<sup>2</sup> In those comments, which were submitted more than two years ago, CWA noted that while we were in overall support of Ameritech entry into long distance, we also provided factual evidence regarding substantial backlogs in the manual processing of pre-ordering and ordering functions in the Ameritech wholesale operations. CWA also provided evidence to the Commission that the

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<sup>1</sup> Nationally, CWA represents more than 630,000 employees who work in telecommunications and other public and private sector organizations.

<sup>2</sup> CWA Reply Comments, *In the Matter of Application by Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-137, June 24, 1997.

wholesale service center was understaffed with primarily newly hired, poorly trained temporary employees who did not have the skills or experience to provide CLECs with customer service at parity with that provided by Ameritech's career employees to Ameritech's retail customers.<sup>3</sup>

CWA will adopt a similar methodology in these Reply Comments regarding Bell Atlantic's application to provide long distance services in New York. We will report on interviews that we have conducted with CWA-represented employees in Bell Atlantic's wholesale customer service centers. The evidence that we provide focuses on the two items on the 14-point checklist that have emerged as the most factually contentious in this proceeding: 1) whether Bell Atlantic-NY provides non-discriminatory access to its pre-ordering and ordering Operations Support Systems (OSS) regarding provision of unbundled loops; and 2) whether Bell Atlantic-NY provides non-discriminatory access to local loops through adequate "hot cut" procedures used to transfer a customer's loop from a Bell Atlantic to a CLEC switch. The evidence we provide supports the conclusion of the New York PSC that Bell Atlantic-NY meets the requirements of the competitive checklist on these items. For the record, we also note our agreement with the New York PSC that Bell Atlantic-NY also complies with the other 12 items on the competitive checklist.<sup>4</sup>

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<sup>3</sup> *Id.*, 11-18.

<sup>4</sup> Evaluation of the New York Public Service Commission, *In the Matter of Petition of New York Telephone Company for Approval of its Statement of Generally Available Terms and Conditions Pursuant to Section 252 of the Telecommunications Act of 1996 and Draft Filing of Petition for InterLATA Entry Pursuant to Section 271 of the*

## **I. Bell Atlantic Has Met the Market Opening Requirements of Section 271**

CWA concurs with the conclusion of the New York Public Service Commission (PSC) that Bell Atlantic has met the requirements of Section 271 of the Communications Act to open its local network to competition under both Track A and Track B.<sup>5</sup> The evidence is overwhelming that local competition is alive and thriving in New York. Competitors in New York serve more than 1 million local telephone lines, almost two-thirds of which are provided through competitors' own facilities. Competitors are exchanging approximately 2.5 billion minutes of traffic each month with Bell Atlantic over a local interconnection network that is nearly one-third the size of Bell Atlantic's own interconnection network in New York.<sup>6</sup> As of June of this year, CLECs served 8.9 percent of all access lines in New York, twice the national average.<sup>7</sup>

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*Telecommunications Act of 1996* ("NY PSC Evaluation"), CC Docket 99-291, Oct. 19, 1999, 1.

<sup>5</sup> *Id.*, 1.

<sup>6</sup> Further evidence of thriving local competition in New York includes these facts. Competitors have sunk more than \$1 billion into competing facilities in New York, including more than 6,000 route-miles of fiber and 47 local switches; as of year-end 1998, there were 49 competitors in New York with facilities of some kind. Competition is not limited to New York City; at least three competing carriers have deployed both fiber and switches in Albany, Buffalo, and Syracuse; as of July 1999, competing carriers were serving customers using some or all of their own facilities in each of the area codes in upstate New York, in addition to re-sale competition. Furthermore, as of July 1999, Bell Atlantic had provided 349,000 interconnection trunks, 776 collocation sites, nearly 200,000 unbundled loops (including platforms), 314,000 resold lines, 340,000 directory listings, and 181,000 ported numbers. Bell Atlantic's competitors now have access to 85 percent of Bell Atlantic's access lines and are receiving service at a quality that meets or surpasses that provided to Bell Atlantic's own customers. *Application by Bell Atlantic-NY for Authorization to Provide In-Region, InterLATA Services in New York* ("Bell Atlantic Application"), Sept. 29, 1999, 1 and 9.

<sup>7</sup> Evaluation of the United States Department of Justice, *In the Matter of Application by New York Telephone Company (d/b/a/ Bell Atlantic-New York), Bell Atlantic Communications, Inc., NYNEX Long Distance*

After an extensive two-and-a-half year collaborative process, including a 15-month test of Bell Atlantic's OSS by independent auditor KPMG, the New York PSC concluded that Bell Atlantic satisfied all the requirements of the 14-point competitive checklist. The New York PSC concluded that other parties who claim that Bell Atlantic fails to meet checklist compliance on item (ii) (non-discriminatory access to OSS) and item (iv) (unbundled loops) are "misreading" the data and are holding Bell Atlantic to the impossible standard of "perfection."<sup>8</sup>

The New York PSC emphasizes that the 1996 Act "does not mandate perfection," but rather sets as a legal standard for checklist compliance non-discriminatory access.<sup>9</sup> This Commission has defined "non-discriminatory access" as providing service that is at parity with the service provided to a company's own retail customers, where a retail analogue exists.<sup>10</sup> Bell Atlantic is not providing perfect service to its own retail customers. In fact, Bell Atlantic failed to meet performance standards set by the New York PSC for its own retail operations and has been subject to penalties for non-compliance with those standards.

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*Company, and Bell Atlantic Global Networks, Inc., for Authorization to Provide In-Region, InterLATA Services in New York* ("DOJ Evaluation"), CC Docket No. 99-295, Nov. 1, 1999, 9.

<sup>8</sup> NY PSC Evaluation, 2.

<sup>9</sup> *Id.*, 8 (emphasis added).

<sup>10</sup> Where a retail analogue does not exist, access should be "sufficient to allow an efficient competitor a meaningful opportunity to complete." *Id.*, 28 (citing Ameritech Michigan Order, 138).

CWA supports regulatory efforts to ensure that Bell Atlantic provides high-quality service in both its retail and wholesale operations. But the legal standard in a Section 271 application is "non-discriminatory" access, not perfection, not even whether or not Bell Atlantic meets the New York PSC's carrier-to-carrier performance standards. And on this the New York PSC is abundantly clear: Bell Atlantic is in compliance with each and every checklist item.

Even the U.S. Department of Justice notes that its concerns regarding Bell Atlantic-NY's OSS for unbundled elements and "hot cut" provisioning do not imply non-compliance with the competitive checklist. The Department of Justice states:

We have examined these facts to assess their impact on the development of competition in New York and have not, however, attempted to determine whether they establish compliance with the legal requirements of the competitive checklist of the Commission's rules, matters which we leave for the Commission's judgment.<sup>11</sup>

CWA agrees with the Department of Justice and other commentators that there is room for improvement in Bell Atlantic's wholesale--as well as its retail--operations. However, that is not the issue here. Rather, the issue is whether Bell Atlantic-NY complies with Section 271 criteria for long distance entry. And on this question the evidence is overwhelming: Bell Atlantic-NY complies with the competitive checklist; Bell Atlantic-NY (in the words of the DOJ) has adopted

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<sup>11</sup> DOJ Evaluation, 13 (footnote 25).

terms of interconnection that "permit efficient CLEC entry";<sup>12</sup> and, as a result, competitors are entering the local market in New York using all three routes contemplated in the 1996 Act: facilities-based, resale, and leasing network elements.

In the next two sections, we discuss the two issues that have been the source of dispute during this proceeding: first, the performance of Bell Atlantic-NY's OSS for pre-ordering and ordering of unbundled elements; and second, the performance of Bell Atlantic-NY in the provisioning of unbundled loops.

## **II. Bell Atlantic-NY Provides Non-Discriminatory Access to its Operations Support Systems**

All parties would concede that provision of non-discriminatory access to an incumbent LEC's operations support systems (OSS) is a monumental undertaking. The task requires getting dozens of computer systems that have been developed separately over many software generations to "talk" to each other; developing operating manuals which describe in detail each step in the operation of each of these systems; and training employees working for many different companies in these correct operational procedures--and then to do this again and again as the computer systems are continuously upgraded and improved.

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<sup>12</sup> *Id.*, 2.



This is a difficult task to accomplish within one company--but compliance with this checklist item requires success across many different companies. The task is made even more difficult by the fact that the customer service operations of virtually all CLECs (even those of the long distance companies) are in a start-up mode, with new employees, new managers, and few established procedures. Given these difficulties, Bell Atlantic-NY's achievements in putting in place an OSS system, that (in the New York PSC's words) can handle "a broad array of resale, unbundled network elements, unbundled network element platform, and combination orders at reasonably foreseeable volumes in a non-discriminatory manner"<sup>13</sup> is all the more impressive.

The Department of Justice expresses a concern regarding Bell Atlantic-NY's ability to flow through CLEC orders for unbundled network elements and unbundled network element platforms.<sup>14</sup> But in voicing this concern, the DOJ admits that "it does not appear that the manual processing is creating serious customer affecting service problems at current volumes."<sup>15</sup> However, the DOJ raises the possibility that Bell Atlantic-NY in the future may not be able to handle larger volumes if it does not increase the number of CLEC orders for unbundled elements that flow-through automatically.<sup>16</sup>

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<sup>13</sup> NY PSC Evaluation, 34.

<sup>14</sup> The DOJ states that it has no concerns with Bell Atlantic-NY's OSS performance for resale operations, which currently comprise twice the share of competitor orders as the share of unbundled element orders.

<sup>15</sup> DOJ Evaluation, 32.

<sup>16</sup> *Id.*, 12.

According to KPMG tests, virtually all unbundled network element orders designed to flow through do indeed flow through.<sup>17</sup> Approximately 40 percent of orders fall out of the electronic system for manual processing.<sup>18</sup> This raises two questions: first, why do these orders fall out of the system and second, what is the level of performance provided by manual operations?

Manual operations for CLEC orders that fall out of the web-based GUI interface are provided by Bell Atlantic customer service representatives who work in the Telecommunications Industry Services Operations Centers (TISOC). Approximately 300 customer service representatives are currently working in the New York TISOC. These employees are represented by CWA. (There is another TISOC in Boston about which we have no information.)

CWA interviewed these customer service representatives to determine the reasons that CLEC orders for unbundled elements fall out of the electronic pre-ordering and ordering systems. They gave the following reasons as typical:

- The CLEC customer service representative frequently does not fill in every line on the form. If there is a blank line on the form, it is designed to fall out of the system so that the Bell Atlantic customer service representative can call the CLEC representative to get the necessary information to process the order.
- The CLEC customer service representative used the wrong form.

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<sup>17</sup> NY PSC Evaluation, 45.

<sup>18</sup> *Id.*, 46.

- There is another pending order on the same line. If there is another pending order, the order will automatically fall out so that the Bell Atlantic representative can confirm with the CLEC representative what the customer really wants and that there is no conflict between the two orders.
- The order states that the customer wants the line "as is" and there are currently features (such as call blocking) on the line. The order falls out of the system so that the Bell Atlantic representative can confirm with the CLEC representative whether "as is" means with or without the current feature(s).

Further, CWA customer service representatives report that CLEC customer service representatives have not been adequately trained in the OSS systems and procedures. As noted earlier, most CLEC operations, even those of the large long distance companies, are in a start-up mode, with new employees who have little to no experience and have received little training on the systems. Bell Atlantic wholesale service representatives report that some CLECs, in order to save money, send only one of their customer service representatives to a Bell Atlantic systems training session, and then expect that representative to train all other representatives in the CLEC office. It strains credulity then to read the comments of some parties in this proceeding who blame CLEC errors on poor training by Bell Atlantic!

In fact, Bell Atlantic requires that each time a Bell Atlantic wholesale customer service representative calls a CLEC representative to resolve a problem on a specific order, the Bell

Atlantic representative must use the opportunity to instruct CLEC representatives on proper procedures to avert future fall out.<sup>19</sup>

The Bell Atlantic customer service representatives working in the New York TISOC are experienced Bell Atlantic employees who have transferred into this location from Bell Atlantic's retail service centers. There are virtually no new hires in the TISOC. They are well-trained, experienced career professionals who have an in-depth knowledge of Bell Atlantic's OSS systems. This experience facilitates their ability to complete manual processing of CLEC orders in a timely and efficient manner, and to provide instruction to CLEC representatives on proper procedures to minimize the number of orders that "fall out" of the automatic system. In addition to the training these experienced customer service representatives bring with them to this position, they receive additional classroom and on-the-job training in the specialized procedures of the wholesale operation. The Bell Atlantic wholesale customer service representatives in the New York TISOC are currently working many hours of voluntary overtime to meet growing demand.<sup>20</sup>

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<sup>19</sup> CWA Interview.

<sup>20</sup> The Commission should be concerned that Bell Atlantic also uses a contractor (ICT located in Langhorne, Pa.) to service CLEC customers. ICT employees are new hires, without adequate training in Bell Atlantic's OSS. They also do not have direct access to all Bell Atlantic's pre-ordering and ordering OSS. As a result, CLECs suffer from inferior service provided under contract with ICT.

It is clear from these reports that CLEC error is a significant cause of fall out from the electronic flow-through system.

CWA acknowledges that there is room for improvement in Bell Atlantic's wholesale customer service operation, just as there is need for improvement in Bell Atlantic's retail customer service operation. Having acknowledged the need for improvement, however, the New York PSC concludes that the KPMG test data, as well as monthly performance data provided by Bell Atlantic to the New York PSC, demonstrate that Bell Atlantic meets the checklist requirement of non-discriminatory access to OSS.<sup>21</sup> CWA concurs.

### **III. Bell Atlantic is Providing Wholesale Competitors with Unbundled Loops**

Several commentators, including the Department of Justice, have raised concerns regarding Bell Atlantic's provision of "hot cuts" (a provisioning process whereby a customer's existing in-service loop is physically disconnected from Bell Atlantic's switch and reconnected to the CLEC's switch). These commentators correctly note that the provisioning of "hot cuts" requires close coordination between Bell Atlantic and the CLEC to ensure that the customer does not lose service for more than a few minutes. Several of these commentators note that coordination problems would be resolved if Bell Atlantic would train its technicians to "scrupulously follow"

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<sup>21</sup> NY PSC Evaluation, 64.

the step-by-step "hot cut" procedures developed in a collaborative process and adopted by Bell Atlantic in March 1999.<sup>22</sup> Commentators are especially concerned that Bell Atlantic technicians call the CLEC 48 hours before the planned cut-over to make the dialtone check.

Bell Atlantic operates a Regional CLEC Coordinating Center (RCCC) in New York City where dedicated technicians perform the work required to install or cut over competitors' orders for new lines, network elements, or network platforms. The technicians in this office are represented by CWA. Today there are approximately 90 technicians assigned to this center, up from 24 technicians just a few years ago. All of these technicians are career Bell Atlantic employees who have requested a transfer to the RCCC. They bring with them many years of experience and training.

Because of the concerns raised by several commentators, CWA interviewed technicians working in the RCCC who perform "hot cut" provisioning. These technicians confirmed that they received two days of special instruction on the "hot cut" procedures developed in the March 1999 collaborative process. In addition, all technicians carry checklists to ensure that they follow proper procedure and turn in a daily closing sheet which provides detailed tracking of their work

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<sup>22</sup> Comments of AT&T Corp. in Opposition to Bell Atlantic's Section 271 Application for New York, *In the Matter of Application by New York Telephone Company (d/b/a/ Bell Atlantic-New York), Bell Atlantic Communications, Inc, NYNEX Long Distance Company, and Bell Atlantic Global Networks, Inc., for Authorization to Provide In-Region, InterLATA Services in New York*, CC Docket No. 99-295, Oct. 19, 1999, 6.

in implementing the procedures. They fill out a detailed ticket to confirm that all pre-wiring testing has been performed 48 hours before the scheduled cut-over date and another detailed ticket to confirm the date and specific time the cut-over will occur. On the day of the cut-over, technicians are required to test the line prior to the cut-over. According to these technicians, Bell Atlantic supervisors closely monitor their adherence to these procedures. Based on the evidence that we have gathered, we conclude that Bell Atlantic is implementing the March 1999 "hot cut" procedures.

The performance data provided to the New York PSC confirms that hot cut provisioning is provided with minimum service disruption and in a timely manner. The New York PSC notes that Bell Atlantic's on-time performance on hot cuts was 90.79 percent.<sup>23</sup> In fact, the New York PSC states that Bell Atlantic meets its installation dates on its wholesale orders at a higher rate than it does on those of its own retail customers.<sup>24</sup>

Certainly, CWA supports improvements in Bell Atlantic's retail and wholesale provisioning services. However, we also agree with the New York PSC that "Bell Atlantic-NY has put in place the procedures and training to maximize effective loop ordering and provisioning . . . and

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<sup>23</sup> NY PSC Evaluation, 87. This statistic includes adjustments based on the New York PSC's evaluation of 119 disputed AT&T hot cut orders.

<sup>24</sup> *Id.*, 97.

to minimize provisioning postponements and local service request confirmation delays and inaccuracies due to Bell Atlantic-NY process problems."<sup>25</sup> We concur that Bell Atlantic-NY complies with this checklist item.

#### **IV. Conclusion: Bell Atlantic Entry into Long Distance Is in the Public Interest**

The record is clear that Bell Atlantic has met the requirements of the 1996 Act to open its local market to competition. The Commission need not fear backsliding by Bell Atlantic. The New York PSC has guided the development of a comprehensive performance assurance plan with rigorous performance standards on more than 1,000 measures that requires Bell Atlantic to put more than \$269 million in refunds at risk each year if it fails to meet the standards.

Bell Atlantic entry into long distance in New York is clearly in the public interest. It will enhance consumer choice in what is now a highly concentrated long distance market. In particular, it will provide new options to low-volume residential long distance consumers who have experienced increased line charges and rising prices in recent years. Bell Atlantic entry into long distance will stimulate competition to provide long distance services at lower cost to all market segments, including, but not limited to, low-volume residential consumers. In addition, Bell Atlantic's entry into long distance will stimulate competition based on price and quality to

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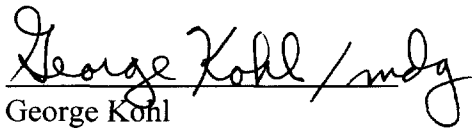
<sup>25</sup> *Id.*, 99.



provide new bundled service offerings to all classes of customers. Finally, Bell Atlantic entry into long distance will stimulate the growth of high-skilled, good jobs in New York.

Therefore, CWA recommends that the Commission approve Bell Atlantic's application to provide inter-LATA services in New York.

Sincerely,

A handwritten signature in cursive script that reads "George Kohl / mdg". The signature is written in dark ink and is positioned above the printed name and title.

George Kohl  
Senior Executive Director

Dated: November 8, 1999